

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

## JOINT MOTION FOR EXTENSION

Plaintiff Patrick Bailey and defendant Miltope Corporation respectfully request that this Court extend the discovery and dispositive motion deadlines in the present civil action and reschedule trial for the next available term of court and in support thereof state as follows:

1. This Court entered a scheduling order on January 10, 2006. The Court's order requires discovery to be completed in this case by December 20, 2006. Dispositive motions are due October 5, 2006. This cause is set for trial during the term of court commencing on January 29, 2007.

2. The undersigned defense counsel recently became responsible for this matter upon the departure of Jennifer F. Swain, prior defense counsel, from Johnston Barton Proctor & Powell. Because of obligations in other pending matters for counsel on both sides, the deposition of Patrick Bailey could not be set

until September 8, 2006. The deposition was begun but ended prematurely that date because of an unexpected emergency requiring the attention of plaintiff's counsel. At this time, the parties plan to complete the deposition on September 29, 2006, the first available date based on the schedules of the lawyers.

3. The parties wish to devote their resources to the successful resolution of this litigation, whether that be through dispositive motion, settlement, or, if necessary, trial. It would be inefficient to expend time on a dispositive motion without the full testimony of the plaintiff; without his full testimony, defense counsel cannot properly evaluate whether a dispositive motion is appropriate. To that end, the parties respectfully request that the Court enter an order extending the discovery and dispositive motions deadlines in the present action by forty-five (45) days. The new deadlines would be November 20, 2006 for dispositive motions and February 5, 2007 to complete discovery.

4. The parties also respectfully request that the trial of this action be continued to the next available term of court so that a dispositive motion, if filed, can be evaluated by the Court prior to trial.

WHEREFORE, the parties respectfully request that the Court enter an order extending the discovery and dispositive motions deadlines by forty-five (45) days and continuing the trial of this cause to the next available term of court.

Dated the 19th day of September, 2006.

*s/ Derrick Blythe*

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